

Frequently Asked Questions In-Use Off-Road Diesel Vehicle Regulation

Low-Use Provisions

Q - What if I have vehicles that I do not use very much or that I could get by with using only very little?

A - The regulation contains special provisions for low-use vehicles. Although low-use vehicles must still be reported and labeled, they do not count towards a fleet's total horsepower, and are not included in the portion of a fleet that must be turned over, retired, or retrofit. As discussed further below, claiming vehicles as low-use can be a very useful way for some fleets to reduce their compliance obligations under the off-road regulation.

Q - What is considered a low-use vehicle?

A - Low-use vehicles are defined in the regulation as vehicles used less than 100 hours per year, or less than 300 hours over a 3 year period. For a vehicle to be considered low-use, the owner must have a non-resettable hour meter installed on the vehicle, and report the annual hour meter readings to ARB.

Q - How can a fleet utilize the low-use provisions?

A - There are two ways the low-use definition may be applied, and there are substantial differences in the restrictions and benefits:

- 1. Year-By-Year Low-use:** A fleet owner may track a vehicle's hours of use during a compliance year, and claim the vehicle as low-use in that one year. For example, the 2010 compliance year would be March 2, 2009, to March 1, 2010. If the vehicle is used under 100 hours in that year (or under 300 hours for the three year period ending on March 1, 2010), that vehicle can be claimed as low-use. The vehicle will be removed from the fleet's total horsepower when calculating the March 1, 2010, requirements, and would not need to be retrofit or turned over in that year. Consider, for example, a fleet with 6,000 total hp, 1,000 hp of which is claimed as Year-by-Year Low-use. For that fleet to meet the NOx BACT turnover requirements of 8 percent per year, the fleet would need to turn over 400 hp (8 percent of 5,000 hp). This reduction in horsepower can also be used to move to a smaller fleet size, with the associated change in requirements.

After a fleet claims a vehicle one year as Year-by-Year Low-use, the fleet can continue to report the vehicle as low-use every year, and report its annual hours of use. The fleet would not receive credit towards the NOx BACT requirements for engine turnover if they chose this Year-by-Year Low-use option.

If a vehicle is claimed as Year-by-Year Low-use, the vehicle does not have to be claimed as low-use in any future years, and could be used over 100 hours in future years without restriction. Once used more than 100 hours in a year, it would then be counted toward the fleet's total horsepower and be included in the emissions requirements in that and later years. Similarly, the vehicle would not need to meet the adding vehicles requirements in order to be used more than 100 hours per year in future years. Thus, a Tier 0 vehicle (which fleets are prohibited from adding after March 1, 2009) could be claimed as Year-By-Year low-use in one year and then used more than 100 hours per year the next year.

- 2. Permanently Designated Low-use:** A fleet owner may designate a vehicle as low-use, permanently limiting the vehicle's hour of use to 100 in any **future** year (the vehicle did not have to be used under 100 hours in the current or previous compliance years). The vehicle must meet the regulation's standards for adding vehicles if the fleet owner ever stops using the vehicle under 100 hours per year, or stops reporting the hours of use to ARB. Hence, if a Tier 0 vehicle (which fleets are prohibited from adding after March 1, 2009) is permanently designated as low-use, it can never again be used more than 100 hours per year. If a fleet permanently designates a vehicle as low-use, the fleet will receive credit towards the NOx BACT requirements for engine turnover for that vehicle's horsepower.

When should a fleet use Year-By-Year Low-use?

If you have a number of older vehicles that are not being used due to decreased activity or any other temporary causes, but that may be used more than 100 hours in the future, using the Year-By-Year low-use provision will most likely be a good choice. This would allow you to use the vehicles as much as needed in future years. As noted above, once a vehicle is permanently designated low-use, on the other hand, its use in future years may be restricted, particularly if it is an older vehicle.

To use this provision for any compliance deadline, such as the March 1, 2010, deadline for large fleets, you would need to report the hour meter readings for the vehicle as of March 1, 2009, and March 1, 2010. Alternatively, you could report the hour meter readings for March 1, 2007 through March 1, 2010, if the vehicle was used more than 100 hours in the

last year, but less than 300 hours in the previous 3 year period. These hour meter readings would be reported as of part of the 2010 fleet report required to show compliance with the regulation, due for large fleets on April 1, 2010.

When should a fleet Permanently Designate Vehicles as Low-use?

If you need credit towards the NOx BACT requirements (which begin in 2010 for large fleets and 2013 for medium fleets – small fleets do not have NOx requirements), and have vehicles that you can permanently restrict to 100 hours per year or less, you may want to use this provision to permanently designate a vehicle as low-use. This will provide NOx BACT credit in the amount of the vehicle's maximum horsepower, and will require that the fleet owner restrict the vehicle's use to 100 hours per year or less, and report the hour meter readings each year. The vehicle can be removed from low-use status only by meeting the requirements necessary to add vehicles to the fleet.

To use the permanent low-use designation, the fleet does not have to report the previous hours of use. For example, if a fleet wanted to designate one of their vehicles as permanently low-use to provide credit towards their NOx BACT requirements in 2010, they could designate it low-use any time up until March 1, 2010.

The vehicle can be used any number of hours from March 2, 2009, to March 1, 2010, and still provide credit towards the 2010 NOx requirements – the initial year the limitation of 100 hours per year would apply is the March 2, 2010, to March 1, 2011, period. The fleet would need to report the vehicle as designated low-use in their 2010 compliance report (due April 1, 2010, for large fleets), and have an hour meter installed and begin logging the hours by March 2, 2010. The fleet will also need to report the hours of use for the vehicle in every future year until the vehicle is sold or the vehicle meets the adding vehicles requirements and is removed from low-use status.

When designating a vehicle as permanently low-use, the fleet cannot use the three-year-average provision until the third year. For example, if a fleet designated a vehicle as permanently low-use in their compliance report for the 2010 requirements, they would be limited to using the vehicles less than 100 hours per year during the 2011 compliance year (March 2, 2010, to March 1, 2011) and the 2012 compliance year (March 2, 2011, to March 1, 2012). In the third year, the vehicle could be used over 100 hours if the hours of use from March 1, 2010, to March 1, 2013, were under 300 hours.

What if I Permanently Designate a Vehicle Low-use that was previously Year-By-Year Low-use?

Once a vehicle is reported as either Year-By-Year Low-use or permanently designated low-use, the vehicle does not count toward the total fleet horsepower, and does not need to be turned over, retired, or retrofit.

However, you may permanently designate a vehicle that was previously year-to-year low-use to receive credit towards the NOx BACT requirements. The vehicle will already have been excluded from fleet calculations; however you will receive credit for turning over the engine.

What if I retire a low-use vehicle?

Year-By-Year Low-use

If a fleet retires a vehicle that was reported as Year-By-Year Low-use, the fleet will receive credit towards the NOx BACT requirements (i.e., the turnover requirements). (This does not “double count” because the fleet did not receive NOx BACT credit when it initially reported the vehicle as Year-By-Year low-use.) If the retired vehicle has a Tier 0 engine, and the fleet is reducing in overall horsepower in that compliance year, the fleet will receive credit towards the PM BACT requirements (i.e., the retrofit requirements) as well.

Designated Low-use

If a fleet retires a vehicle that was permanently designated low-use, the fleet will not receive additional credit towards the NOx requirements; because NOx credit for the vehicle was already granted when the vehicle was designated low-use. If the vehicle has a Tier 0 engine, and the fleet is reducing in overall horsepower in that compliance year, the fleet will receive credit towards the PM BACT requirements (i.e., the retrofit requirements).

What if I have a low-use vehicle in my fleet when I do my initial reporting in 2009?

Vehicles initially reported to ARB as low-use in 2009 may use either of the low-use provisions – Year-By-Year or permanent low-use. If a vehicle was used less than 100 hours in the previous year, but is not reported using one of the low-use provisions detailed above, the vehicle will not be considered low-use, and its horsepower will be added to the fleets total when determining if the fleet meets the 2010 compliance requirements. Note that if the fleet wants to use the Year-By-Year Low-use option to remove the vehicle from the 2010 requirements, they must install and log the hours of use starting no later than March 2, 2009.

What if I have vehicles used partially inside and partially outside of California?

If you operate a vehicle both inside and outside of California, you may use the hours that it is operated inside California to determine if the vehicle is low use. For instance, if a fleet uses a vehicle 99 hours inside California in one year, and 2000 hours in Nevada and another 1000 hours in Oregon in the same year, the vehicle would meet the low-use requirements for that year. To use this provision, the vehicle owner would need to log the hour meter reading each time the vehicle entered and left the state. The vehicle will be reported as “Low-use Outside”, and the hours of use inside California only will be reported in that year, and a log of the hours on entering and leaving California should be kept if ARB requests verification of the hours.

What about vehicles used partially for emergency services?

If you use a low-use vehicle for emergency services (e.g., fighting or controlling a wildfire), you do not need to include the hours of use that were for emergency use when determining the vehicle’s annual hours of use. For example, if a vehicle was used 95 hours in one year in general use, but was also used 50 hours to help fight wildfires, that vehicle would meet the low-use requirements for that year. The vehicle owner would need to log the hour meter readings during general services (non-emergency use) and report those as the vehicle’s hours of use in that year, and keep a record of the logs of emergency services.